

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

MAY 14 PM 1:08

U.S. DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

JOHN FITZGERALD KENNEDY,

Petitioner,

v.

WARDEN RALPH HOOKS and
THE ATTORNEY GENERAL OF
THE STATE OF ALABAMA,

Respondents.

CIVIL ACTION NO. 01-C-0939-S

Lat **FILED**
MAY 14 2002

MEMORANDUM OF OPINION

The court has considered the entire file in this action together with the Magistrate Judge's Report and Recommendation and the objections of the petitioner (doc. 13) and has reached an independent conclusion that the Magistrate Judge's Report and Recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. In accord with the recommendation, this petition for writ of habeas corpus is due to be dismissed with prejudice.

To the extent that the petitioner claims that the present petition is timely because his third state post-conviction challenge pursuant to Rule 32 was denied shortly before he filed this petition, he is in correct. By the time he filed the third Rule 32 petition, the federal one-year statute of limitations had already expired. Accordingly, his federal petition is untimely.

An appropriate order will be entered.

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DONE, this 10th day of May, 2002.

A handwritten signature in black ink, appearing to read "U. W. Clemon", written over a horizontal line.

U. W. CLEMON
CHIEF UNITED STATES DISTRICT JUDGE